

Amendment No. 1 to HB0506

Keisling
Signature of Sponsor

AMEND Senate Bill No. 350*

House Bill No. 506

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 8, Chapter 6, is amended by adding the following as a new part:

8-6-501. This part is known and may be cited as the "Defense of Liberty Act."

8-6-502.

(a) There is created within the legislative branch of state government the office of the solicitor general. Except as otherwise provided in subsection (b), the solicitor general shall be elected by a joint vote of both houses of the general assembly and shall hold office for a term of four (4) years and until a successor is elected and qualified.

(b) The general assembly shall elect the solicitor general during the first thirty (30) days of the second regular session of the 112th general assembly, and within the first thirty (30) days of the first regular session every even-numbered general assembly thereafter.

(c) The solicitor general may be removed from office upon concurrence of two-thirds (2/3) of the members of the house of representatives and two-thirds (2/3) of the members of the senate.

(d) If a vacancy occurs in the office of solicitor general, a replacement shall be elected by a joint vote of both houses of the general assembly to fill the unexpired term of the solicitor general. If the general assembly is not in session when the vacancy occurs, then an interim solicitor general shall be appointed jointly by the speaker of the

senate and the speaker of the house of representatives and shall serve until the general assembly reconvenes and elects a solicitor general to fill the unexpired term.

(e) The solicitor general shall:

(1) Be a graduate of an accredited law school and be licensed to practice law in this state;

(2) Have such training or practical experience as may be considered necessary by the general assembly to perform the duties of the office;

(3) Be at least thirty-five (35) years of age; and

(4) Devote full time to the duties of the office and may not engage in the private practice of law.

8-6-503.

(a) Notwithstanding any law to the contrary, upon the initial election of solicitor general as provided in § 8-6-502(b), the attorney general and reporter is relieved of all duties described in subsection (b).

(b) The solicitor general, or assistants acting at the solicitor general's discretion, has the following duties:

(1) To defend the interests of the state in federal court and administrative proceedings when the resolution of the proceedings may negatively impact the state, including proceedings in which the state may not be a party in interest but the outcome of the proceedings could result in a modification of state laws, including but not limited to, application, interpretation, and construction of state laws;

(2) To monitor litigation in all federal courts for the purposes of determining if the state should join or brief any litigation proceeding that could negatively impact the state, and to report on the litigation in the federal courts to the general assembly from time to time;

(3) To defend the constitutionality and validity of all laws of statewide applicability in federal court, except in those instances where the solicitor general is of the opinion that such law is not constitutional, in which event the solicitor general shall so certify to the speaker of each house of the general assembly;

(4) To notify the director of the office of legal services, or the director's designee, and the director of the fiscal review committee of any lawsuit filed in federal court in which the state is a named party and the solicitor general or assistants are representing the state;

(5) To bring suit on behalf of the state, local government units, or local education agencies to recover public funds from entities financed by the funds and the entities' directors or officers when the funds through the improper actions of the directors or officers have been used for unauthorized purposes, misapplied, or misappropriated and such suit can be filed in federal court; and

(6) To file any amicus brief in any federal court in which a proceeding is pending, the outcome of which could impact the state.

8-6-504.

(a) There is created the office of solicitor general, of which the solicitor general shall be the executive head, and who, with assistants, shall constitute such department within the legislative branch of state government. The department shall maintain offices in Nashville, which shall be furnished and provided by the state.

(b) The solicitor general shall receive a salary set by the speaker of the house of representatives and the speaker of the senate, payable in equal monthly installments out of the treasury of the state by warrant of the commissioner of finance and administration upon the treasurer.

(c) The solicitor general shall employ and, within budgetary limitations, fix the salaries of the solicitor general's assistants and other employees. The solicitor general and the solicitor general's assistants and employees shall be reimbursed for official

travel expenses in accordance with the official executive policies governing travel at state expense.

8-6-505.

All testimony, books, documents, or other writings, records, or tangible objects obtained by the solicitor general pursuant to this part shall be confidential and shall not be publicly divulged by the office of the solicitor general except in the discharge of the duties of the office or in federal legal proceedings in which the state is a party.

SECTION 2. Tennessee Code Annotated, Section 3-7-109, is amended by deleting the language "attorney general and reporter" wherever it appears and substituting instead the language "attorney general and reporter or the solicitor general".

SECTION 3. Tennessee Code Annotated, Section 3-12-108, is amended by deleting the language "attorney general and reporter" wherever it appears and substituting instead the language "attorney general and reporter or the solicitor general".

SECTION 4. Tennessee Code Annotated, Section 8-6-109(b)(1), is amended by deleting the language "civil litigated matters and administrative proceedings" and substituting instead the language "civil litigated matters in state courts and administrative proceedings in the state".

SECTION 5. Tennessee Code Annotated, Section 8-6-110, is amended by deleting the section.

SECTION 6. Tennessee Code Annotated, Section 8-6-301, is amended by adding the following new subsection:

(d) This section shall only apply in state proceedings.

SECTION 7. For purposes of making necessary arrangements for the transfer of the attorney general and report's duties in federal courts to the solicitor general, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect January 4, 2022, the public welfare requiring it.